BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Wisconsin Energy Corporation for Approval of a Transaction by which Wisconsin Energy Corporation Would Acquire All of the Outstanding Common Stock of Integrys Energy Group, Inc.	)	Docket No.: 9400-YO-100

SUR-REBUTTAL TESTIMONY OF
SCOTT LAUBER IN SUPPORT OF APPLICATION
BY WISCONSIN ENERGY CORPORATION

Q. Please state your name, business address, and title.

A. My name is Scott Lauber. My business address is 231 West Michigan Street, Milwaukee, Wisconsin 53203. I am Vice President and Treasurer for Wisconsin Energy Corporation ("WEC"), Wisconsin Electric Power Company and Wisconsin Gas LLC.

Q. Did you previously file testimony on behalf of WEC in this docket?

A. Yes. I filed direct and rebuttal testimony.

Q. What is the purpose of your sur-rebuttal testimony in this proceeding?

A. My sur-rebuttal testimony first summarizes WEC's understanding of the status of several of the merger conditions proposed by Staff and intervenors. My sur-rebuttal testimony will address proposed conditions in the areas of accounting and finance which WEC opposes or wishes to clarify.

Q. Please describe Ex.-WEC-Lauber-10.

A. This exhibit reflects the proposed conditions on which I believe the parties have reached agreement. I believe we are making good progress toward closing some of the gaps between the conditions that have been proposed and the conditions we can support. It will again be helpful for the reader to have Ex.-WEC-Lauber-4 at hand as he or she reads my testimony, since I will address the remaining disputed items in the order in which they appear in that exhibit.

Q. Are you sponsoring other exhibits with your sur-rebuttal testimony?

A. Yes. I am sponsoring:

- Ex.-WEC-Lauber-11 -- Fitch Corporate Ratings Navigator for Wisconsin Electric;
- Ex.-WEC-Lauber-12 -- Fitch Corporate Ratings Navigator for Wisconsin Gas;
- Ex.-WEC-Lauber-13 -- My response to Michigan Staff Data Request 1-HJM-5;
- Ex.-WEC-Lauber-14 -- ATC-related legislative history materials.

Q. Could you summarize the current status of the various conditions before beginning your substantive discussion of the remaining disputed items?

A. Yes. First, I should note that throughout this testimony, where I refer to “items,” I mean the item number listed in the first column on Ex.-WEC-Lauber-4. As reflected in Ex.-WEC-Lauber-10, I believe the parties have reached full, unequivocal agreement on:

- Item 1 -- Accounting -- Accounting for Transaction Costs
- Item 3 -- Accounting -- Acquisition Premium
- Item 8 -- Accounting -- Proof of Exclusion
- Item 10 -- Accounting -- Purchase Accounting/Push-down Accounting (as amended by Mr. Larson)
- Item 12 -- Accounting -- Transaction Cost Definition (as clarified by Ms. Bartels)
- Item 14 -- Accounting -- Transaction Cost Recovery
- Item 16 -- Accounting -- Transaction Costs and Fuel Rules

- Item 17 -- Affiliated Interest -- Affiliated Interest Agreements (as clarified by Ms. Bartels)
- Item 43 -- Financial -- Money Pool and Guarantees (as confirmed by Ms. Hubert)
- Item 50 -- Holding Company -- Applicable Requirements
- Item 51 -- Holding Company -- Books and Records
- Item 58 -- Operations -- Gas Emergency Response Time
- Item 60 -- Operations -- Labor Retentions -- Represented Employees
- Item 69 -- Service Company -- Access to Books and Records
- Item 71 -- Service Company -- Effectiveness of Affiliated Agreements
- Item 72 -- Service Company -- Independent Audit
- Item 73 -- Service Company -- Jurisdiction
- Item 74 -- Service Company -- Performance of Services
- Item 79 -- Synergy Savings -- Cost Analysis -- Alternate (as clarified by Ms. Bartels)
- Item 81 -- Synergy Savings -- Tracking Transition Costs -- Alternate
- Item 82 -- Synergy Savings -- Transition Cost Recovery (duplicative of Item 81, as confirmed by Mr. Hahn)
- Item 86 -- Synergy Savings -- Transition Cost Recovery -- Alternate

There are a number of other conditions that were originally proposed by Staff and intervenors to which we responded in rebuttal testimony, and to which Staff and intervenors did not directly respond in rebuttal testimony. I do not want to presume that the witnesses agree with our arguments on these items, and so will simply catalogue them here and not discuss them further since it appears that the parties' positions are fully stated. I would note, though, that for several of these items we have agreed to very similar conditions, and I would speculate that the witness who originally offered the condition was satisfied by that agreement.

- Item 4 -- Accounting -- Acquisition Premium (WEC accepted item 3 on this issue)
- Item 7 -- Accounting -- Proof of Exclusion (WEC accepted item 8 on this issue)
- Item 9 -- Accounting -- Proof of Exclusion (WEC accepted item 8 on this issue)
- Item 11 -- Accounting -- Purchase Accounting/Push-down Accounting (WEC accepted item 10 on this issue)
- Item 13 -- Accounting -- Transaction Cost Recovery (WEC accepted item 14 on this issue)
- Item 18 -- Affiliated Interest -- Affiliated Interest Cost Recovery (WEC accepted this item with clarification; WIEG did not respond)
- Item 44 -- Financial -- Money Pool and Guarantees (WEC accepted item 43 on this issue)
- Item 53 -- Operations -- Average Speed of Answer -- Customer Service Call Center (WEC accepted this item in part, with explanation; Staff did not respond)
- Item 54 -- Operations -- Charitable Contributions (WEC accepted the second proposed form of this condition; Staff did not respond)
- Item 55 -- Operations -- Coordination of Workforce Plan (WEC opposed this item, with explanation; Staff did not respond)
- Item 56 -- Operations -- Customer Service Call Center (WEC opposed this item, with explanation; Staff did not respond)

- Item 57 -- Operations -- Employee Headcount -- Five Years (WEC opposed this item, with explanation; Staff did not respond)
- Item 59 -- Operations -- Implementation of the ICE Project (WEC accepted this item with clarification; Staff did not respond)
- Item 63 -- Operations -- Low Income Programs (WEC accepted the third proposed form of this condition; Staff did not respond)
- Item 64 -- Operations -- Merger Integration Plans (WEC opposed this item, with explanation; Staff did not respond)
- Item 67 -- Rates -- Levelization of WEPCO and WPSC Rates (WEC proposed an alternative to item 68 on this issue; GLU did not respond)
- Item 80 -- Synergy Savings -- Tracking Transition Costs -- Alternate (WEC opposed this item, with explanation; Staff did not respond)
- Item 85 -- Synergy Savings -- Transition Cost Recovery (WEC accepted item 86 on this issue)
- Item 87 -- Synergy Savings -- Transition Costs -- Alternate (Bartels) (WEC accepted item 86 on this issue)
- Item 88 -- Synergy Savings -- Transition Costs -- Alternate (Kollen) (WEC accepted this item with clarification; WIEG did not respond)
- Item 92 -- Synergy Savings -- Treatment of Deferrals (WEC opposed this item, with explanation; WIEG did not respond)
- Item 93 -- WPSC 2016 Test Year Reopener (WEC noted there is insufficient information to evaluate this item at this time; Staff did not respond)

Finally, Mr. Leverett discusses several of the remaining categories of proposed conditions in his sur-rebuttal testimony, so I will not address them here:

- Items 5, 6 and 65 -- Proposals by Jobs4WI on Power the Future costs and rate design
- Items 19-31, 94 -- ATC-related conditions
- Items 32-35 -- Most favored nation
- Items 47-49 -- Joint resource planning/Fox Energy Center
- Items 61, 62 -- Location of corporate and operational headquarters
- Item 78 -- Bill credits
- Items 89-92 -- Write-off of transmission escrow accounts
- Item 95 -- Treatment of loss on Presque Isle Power Plant

I will address the remaining items in the order they appear in Ex-WEC-Lauber-4.

Q. Which item would you like to address first?

A. I will first address item 2, which is CUB witness Mr. Hahn's position that the Commission should "deny direct and indirect recovery of the acquisition premium." We believe this condition is unnecessary in light of our acceptance of Ms. Hubert's proposed condition (item 3) that "WEC Energy may not recover any acquisition premium from the utility ratepayers. No acquisition premium, even though not recoverable in rates, may be allocated to WEPCO, WG, or WPSC accounts." While Mr. Hahn acknowledges this commitment, he apparently remains concerned that WEC will demand increased dividends from Wisconsin Electric, Wisconsin Gas and WPS to "indirectly" recover the acquisition premium. (Rebuttal-CUB-Hahn-17). However, it appears to me that our commitment not to "recover any acquisition premium from utility ratepayers" forecloses this possibility. Even if it didn't, the restrictions on dividend payments under Wisconsin's Holding Company Act and in the utilities' most recent rate cases would provide such restrictions. Mr. Hahn's proposed condition therefore is superfluous and unnecessary.

Q. The next disputed issue is item 15, which is a proposal by WIEG witness Mr. Kollen to "deny recovery of transaction costs in any form, regardless of which entity records the costs and regardless of whether incurred before or after the transaction closes." Why does this item remain in dispute?

A. Frankly, I'm not sure. We have committed very clearly that we will not recover any transaction costs from ratepayers (item 14). It is not clear to me why Mr. Kollen believes his proposed condition is different or provides additional protection to ratepayers. Therefore, I would urge the Commission to adopt item 14, and reject Mr. Kollen's duplicative item 15.

Q. Which items would you like to discuss next?

A. I would like to turn to items 36-38, which deal with dividend restrictions. These conditions are unwarranted. In my rebuttal testimony, I noted that items 36 and 37 appear to largely duplicate rate case order points that prohibit payment of dividends that will cause the utilities to dip below authorized common equity floors. Ms. Hubert proposes to take away flexibility allowed under the rate case orders. Simply put, Ms. Hubert's proposals would turn the common equity ratios set forth in the rate case into lines that may not be crossed, even momentarily. This is inconsistent with their intended purpose, which is to provide a long-term average common equity ratio. So long as the utilities comply with the long-term average common equity ratios set forth in the rate cases, any greater restrictions would amount to micro-management of the utilities. Ms. Hubert quotes Fitch's and S&P's complimentary statements concerning the Holding Company Act's ring fencing provisions but then suggests that her "enhanced" dividend restrictions are necessary to provide additional protection. Notably, in reports issued just last week on February 27, 2015, Fitch does not appear to agree with Ms. Hubert's claim. Fitch states:

> The pending acquisition of Integrys bears no impact on [Wisconsin Electric's and Wisconsin Gas's] credit profile, in Fitch's view. Regulatory ring-fencing measures, including dividend restrictions, shield [Wisconsin Electric and Wisconsin Gas] from potential parent financial contagion.

(Ex.-WEC-Lauber-11, 12). Therefore, to the extent Ms. Hubert intends items 36 and 37 to impose conditions that are different from the last rate case orders, we do not support them.

Both Mr. Hahn and Ms. Hubert make a similar point about item 38, which would limit the dividend payout ratio to the average of the most recent four years. Mr. Hahn and Ms. Hubert both argue that the condition is intended to do more than simply restate the Commission's authority under the Holding Company Act to restrict dividends; it is meant to actually cause the Commission to exercise that authority. There has been no showing that additional restrictions are warranted, and, as I mentioned previously, the rating agencies do not take the position they are needed. Therefore, I urge the Commission to reject item 38.

Q. How do you respond to CUB's and WIEG's rebuttal testimony on the earnings caps proposed in items 39 and 40?

A. We continue to oppose such conditions. While Mr. Hahn and Mr. Kollen may not be troubled by the fact that their proposed earning caps are asymmetrical (i.e., they don't provide for a true-up of utility earnings that fall short of the authorized level), that remains a significant concern for WEC.

Mr. Hahn argues that the earnings cap is not retroactive ratemaking because the cap would be set prospectively. That is neither here nor there, as the "claw-back" of earnings would still be retroactive.

Finally, both Mr. Hahn and Mr. Kollen cite prior Commission proceedings as precedent for the sort of earnings caps they are proposing. However, the decisions Mr. Hahn and Mr. Kollen point to provide no such support. Northern States Power *agreed* to an earnings cap as part of a settlement. Docket No. 4220-UR-120, Final Decision p. 8 (ERF No. 226559). Similarly, Wisconsin Power & Light affirmatively proposed a revenue sharing mechanism in its 2015 test year rate case, which the Commission approved. Docket No. 6680-UR-119, Application p. 5 (ERF No. 201730). The fact that a utility voluntarily agrees to an earnings cap or revenue sharing mechanism tells us nothing about the Commission's authority to impose such a provision over the protests of a utility, or the wisdom of doing so. Therefore, I urge the Commission to reject items 39 and 40.

Q. Which proposed conditions will you address next?

A. Next I will turn to items 41 and 42, which deal with proposals by Mr. Kollen, Mr. O'Donnell and Ms. Hubert to exclude increased borrowing costs from rates. We oppose these conditions. Surprisingly, Ms. Hubert's rebuttal testimony makes it clear that she apparently is not only referring to increases attributable to the transaction, but *any* increase in borrowing costs, *ever*. (Rebuttal-PSC-Hubert-11). Of course, credit ratings are adjusted for a variety of reasons, some having to do with a company's financial metrics and others attributable to regulatory action or the larger economy. Making WEC the insurer for the vagaries of the national and global economy would be fundamentally unfair. Further, as I pointed out in my rebuttal testimony, it would be difficult to disentangle downgrades that are caused by the transaction from those that are caused by other factors. Ms. Hubert appears to resolve this problem by simply making the company responsible for the cost of *any* downgrade for *any* reason.

Further, contrary to Mr. Kollen's and Ms. Hubert's assertion that it is the transaction itself and not Commission action that would lead to a downgrade, Fitch seemingly disagrees. In its February 27, 2015 guidance, Fitch noted:

> *A deterioration in the Wisconsin regulatory compact* and adjusted debt/EBITDAR ratio over 4.0x [for Wisconsin Gas and 3.8x for Wisconsin Electric] on a sustained basis *could lead to negative rating action*.

(Ex.-WEC-Lauber-11, 12) (emphasis added). Thus, while I do not disagree that in some situations company action could lead rating agencies to adjust ratings, Ms. Hubert and Mr. Kollen must also concede that Commission action can lead to the same result. Therefore, I urge the Commission to reject items 41 and 42.

Q. Mr. Hahn claims that the company will be assuming $1.7 billion in new debt to finance the transaction. (Rebuttal-CUB-Hahn-19). Is he correct?

A. No. Our cost for the transaction consists of $1.5 billion for Integrys shares ($18.58 per share for approximately 80 million shares) and approximately $200 million in estimated transaction costs, totaling approximately $1.7 billion. However, as we've said repeatedly, we will be issuing approximately $1.5 billion in new debt. We will also be paying approximately $200 million at closing in cash. This cash has been freed up by WEC's decision to terminate its stock repurchase program after the transaction was announced.

Q. Mr. Hahn takes the position that since Wisconsin Electric, Wisconsin Gas and WPS currently maintain their own credit ratings, they should not object to being required to do so going forward. (Rebuttal-CUB-Hahn-7; Item 45). How do you respond?

A. We oppose this condition. For various reasons, it may not make sense for a company to maintain its own independent listing with credit rating agencies. For one thing, there is significant cost involved in doing so. Further, circumstances can change. It would not be prudent for us to pretend we know exactly what the future holds, so we resist a commitment to maintain, forevermore, separate credit ratings at each of the utilities. We will continue to manage the utilities in the best interests of customers, including on the question of whether to maintain separate credit ratings for each of the companies.

Q. Ms. Hubert accepted your proposed modification to item 46, so that WEC will be required to file a report on holding company debt annually rather than every 90 days as she originally proposed. She also suggested the addition of a requirement that "WEC Energy shall notify the Commission within 30 days of any changes to the debt reduction plan or holding company debt." What is your reaction to that suggestion?

A. First, we appreciate Ms. Hubert's accommodation on the timing for the reports. However, the additional language she suggests is unworkable from our perspective. Holding company debt can change on a daily basis. Therefore, it would be impractical to provide the sort of ongoing reporting that Ms. Hubert has requested.

Q. Item 52 would require the utilities to provide the Commission with "prompt notice of any filing by any of the holding company or its subsidiaries with other state commissions and FERC that is relevant to the Commission's authority and obligations." Ms. Bartels points out in rebuttal that similar conditions were imposed in other merger dockets. How do you respond?

A. My rebuttal testimony proposed that the utilities would work with the Commission to identify filings that meet the threshold of "relevance to the Commission's authority and obligations." I continue to believe that this is a reasonable clarification of the condition. While this condition was imposed in other cases, that doesn't necessarily mean that it has been workable in its implementation. We do not oppose this condition outright; all we're seeking is clarity about what will be expected of us going forward.

Q. How do you respond to the positions Mr. Kollen and Ms. Hubert have taken in rebuttal on items 66 and 68, which have to do with levelization of rates between Wisconsin Electric and WPS?

A. I would urge the Commission to reject these conditions. Mr. Kollen proposes limiting his ban on levelization to five years. An absolute prohibition for any number of years is unwarranted and might not be in the best interests of customers. As we have noted in our Application and repeatedly in testimony, levelization would not be proposed unless and until it can be shown to be in the best interests of customers. If that can be demonstrated Mr. Kollen, who represents industrial customers, should have no objection. As we've said repeatedly, levelization, if proposed, could not happen without Commission review and approval.

Ms. Hubert seeks a five or ten year period during which the utilities would have to reach consensus on levelization with Commission Staff and "other affected parties." Without consensus, no levelization could occur. We continue to object to this proposal, which, like Mr. Kollen's, could easily end up doing a disservice to customers. Under Ms. Hubert's proposal, if one customer or group of customers objected to levelization that otherwise appealed to the vast majority of customers and was in the public interest, the levelization could not occur. The better approach is to leave the question of whether and when levelization is in the public interest to the Commission, like any other decision affecting utility customers.

Q. Ms. Bartels' rebuttal testimony makes the case that item 70 is warranted. This proposed condition would require that "If, in the future, WEC Energy and/or any of its subsidiaries are down-sized in any significant way, the absolute cost allocation to WEPCO, WG, and WPSC shall not increase unless the utilities demonstrate that the cost allocation is justified and reasonable." You opposed the condition. Has your position changed?

A. No. Ms. Bartels argues that a similar condition was imposed in past Commission decisions, but has identified only one: the February 16, 2007 Final Decision approving the WPSR acquisition of PEC in docket 9405-YI-100 (PSC REF# 69612). In that case, a counterpart to item 70 was proposed as part of a solution to a "trapped costs" problem that has been solved differently in this proceeding (see item 71), was accepted without contest following settlement discussions, and was deemed necessary pursuant to the Commission's authority under the Holding Company Act, which WEC has expressly agreed to be bound by here. This comparison does not support Ms. Bartels' position.

Moreover, as I pointed out in my rebuttal testimony, allocations may or may not change following a down-sizing for various reasons. It is not possible to pre-commit to this condition without knowing the circumstances of the hypothetical down-sizing. In any event, the Commission will have full oversight authority over the service company's cost allocations in the event any down-sizing occurs.

Q. Do you continue to oppose item 72, which would require periodic audits of the service company at the utilities' expense, and item 74, which would extend standards under the Holding Company Act to the service company?

A. We continue to believe it is unnecessary to restate the authority the Commission already has under the statutes. However, to narrow the differences on conditions, we are willing to accept these two items as drafted.

Q. Please explain WEC's position on item 75, which would limit the service company to performing services where there are "economies and efficiencies of scale that could not be achieved if the services were not performed by the service company."

A. I believe that Ms. Bartels and I fundamentally agree on this condition, but I think that what is missing from her statement of the issue is the concept that there may be qualitative reasons -- in addition to quantitative reasons -- why the service company should perform certain services. So long as that concept is incorporated in the final condition, we do not oppose it.

Q. What is your reaction to Ms. Bartels' statement about what the word "temporarily" means in her proposed item 76, where she says that she does not know what it means but that she will "know it when she sees it"?

A. That sort of "standard" is unacceptable to us and if adopted would significantly complicate our business planning. In my supplemental direct testimony, I disclosed that as part of the sale of the Presque Isle Power Plant and Wisconsin Electric and WPS distribution assets, we will be agreeing to provide certain services to the buyer, UPPCO. That is one of the fundamental assumptions upon which that transaction rests. Therefore, we need certainty about the scope and duration of such services that the Commission will allow. And, of course, Ms. Bartels' suggestion that the Commission might simply prohibit any such provision of services is unworkable.

Again, the fact that a similar condition was imposed in other dockets does not automatically mean it should be imposed here.

Q. Item 77 would give the Commission approval authority over allocation methodologies and factors and, if those methodologies and factors differ from those approved in other jurisdictions, makes clear that the holding company should absorb any costs. How do you react?

A. This condition is unwarranted. Ms. Bartels makes clear that this item is "included as a proposed condition in this proceeding as a contingency. It will be applicable *if and only if* the issue of allocation of potential savings becomes an issue." (Rebuttal-PSC-Bartels-11) (emphasis in original). This appears to be all the more reason not to adopt the condition. The Commission already has the inherent authority to address this unlikely contingency; there is no need for a condition restating that authority.

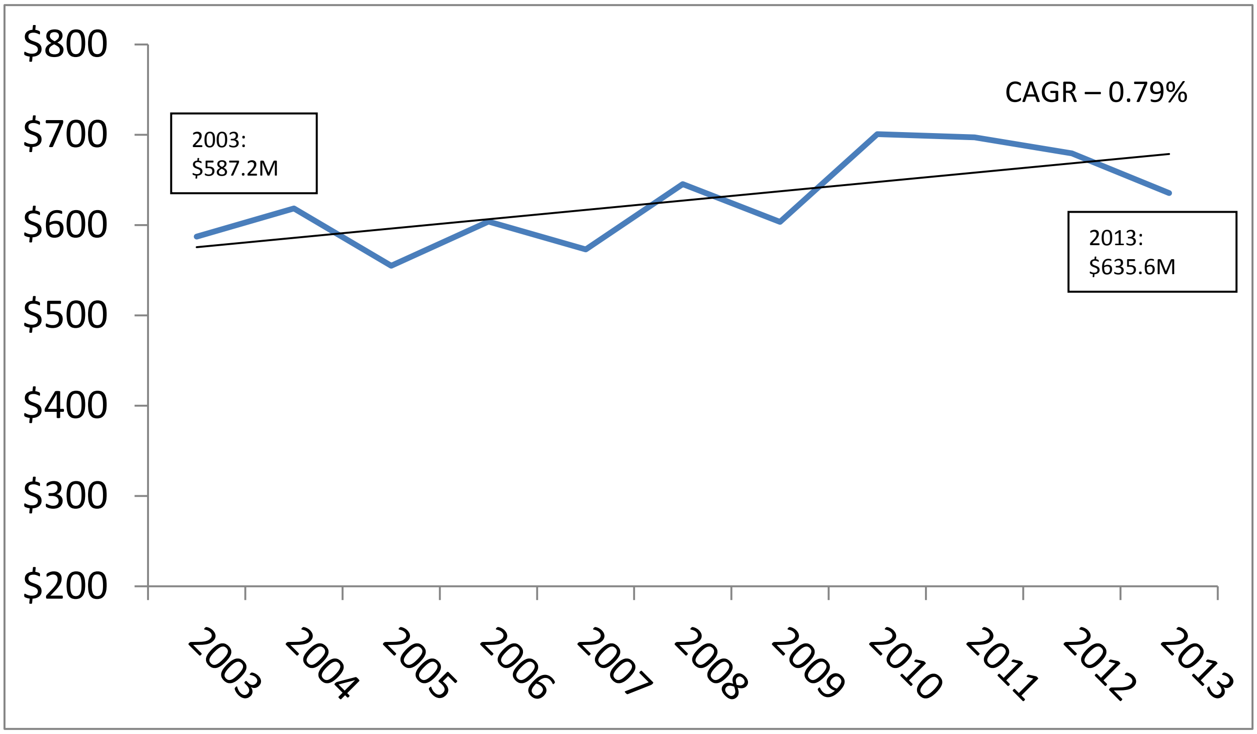
Q. Ms. Hubert and Mr. Hahn appear to agree that transition costs should be tracked in the company's accounting system and should be recoverable if they are outweighed by net savings. (Rebuttal-CUB-Hahn-8). However, Mr. Kollen continues to contest items 83 and 84 on this point. How do you respond?

A. Mr. Kollen's proposed condition is unnecessary. Assuming the mechanism for tracking and recovery of transition costs proposed by Ms. Bartels -- and supported by WEC and CUB -- is adopted, Mr. Kollen's concerns will be addressed. While he speculates about several ways in which WEC could manipulate the accounting system it has proposed, and criticizes it for being nothing more than a "concept," he has offered no actual evidence supporting his concerns. As I discussed in my rebuttal, I would urge the Commission to adopt the three related conditions Ms. Bartels has proposed on this issue -- items 79, 81 and 86 -- and reject Mr. Kollen's proposed items 83 and 84.

Q. Do you have any reaction to Mr. Vock's discussion of non-fuel O&M costs?

A. Yes. Mr. Vock continues to focus on historical costs and in particular on non-fuel O&M. I don't know the basis for Mr. Vock's estimates of non-fuel O&M costs contained in the two charts in his rebuttal testimony. However, the fact of the matter is that the increases in WEC's non-fuel O&M over the past decade are attributable to our construction of new generation and emission controls that were required to meet demand, the renewable portfolio standard and environmental requirements. Controlled for these new facilities, our O&M has grown by less than 1% year-over-year, as demonstrated by the chart below.

Figure 1: We Energies Controllable O&M -- 2003-2013



Q. Does this complete your sur-rebuttal testimony?

A. Yes.